

K.L.
494346



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref:8ENF-T

Ms. Andrea Preate
Legal Assistant
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103-2921

DEC 19 2001

Re: Freedom of Information Act Request
Testing of Insulation, Sampling Results, Misc.
Libby Asbestos Superfund Site
Request #08-RIN-0053-02

Dear Ms. Preate:

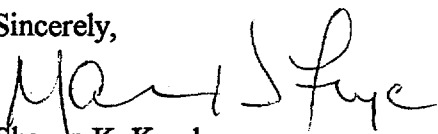
This letter is in response to your Freedom of Information Act request dated November 9, 2001. Enclosed is one CD entitled "Libby Asbestos Database".

A bill for \$56.45 will be sent under separate cover. The cost includes search and review time of \$30.00, 43 copies @ \$.15 per page and \$20.00 for the CD.

EPA has provided access to the Internet for the following frequently-requested data bases: CERCLIS, AIRS, AFS, RCRIS, TRIS, FINDS, PCS, WATER Discharge Permits, EMCI, and LRT. The Internet address is <http://www.epa.gov/region8>. Select "FOIA", then go to About Region 8, then Freedom of Information. Questions can be directed to the Internet helpline at 1-800-334-2405 (dial "0" when they answer). The phonelines are staffed from 7:30 am to 8:00 pm EST. If you do not have access to the Internet, please note that many public libraries do have this access and offer it for public use.

If you have further questions regarding this matter, please contact Kelcey Land at (303)312-6393.

Sincerely,


Sharon K. Kercher
Technical Enforcement Program
Office of Enforcement, Compliance
And Environmental Justice

for



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Freedom of Information Act Request

08-RIN-00053-02

Requestor: ANDREA PREATE Request Date: 11/09/2001
Company: MORGAN LEWIS & BOCKIUS Date Received: 11/09/2001
Fee Category: COMMERCIAL Acknowledged: 11/13/2001

Subject: TESTING OF INSULATION; SAMPLING RESULTS, MISC.
LIBBY, MT INFO, ETC.

Lead Office: 08-ENF

Assigned to: 08-ENF, 08/P

*As per
to Keleen
Land
sn*

Original Due Date: 12/11/2001

New Due Date: 12/12/2001

Track: BASIC

Fee Waiver
Requested: NO

FIS Initials: VF

SPECIAL INSTRUCTIONS:

IF COSTS ARE EXPECTED TO EXCEED
\$25, CONTACT REQUESTER FOR
PAYMENT COMMITMENT BEFORE
PROCESSING REQUEST.

REC'D BY:

DATE

*Called
12/13/01 - need
data disk from Paul
talked to Andrea
on 12/13 - told her I
needed data CD
1st before I could
answer for probably
next wk - said
that would
be ok -*

1701 Market Street
Philadelphia, PA 19103-2921
215.963.5000
Fax: 215.963.5299

**Morgan, Lewis
& Bockius LLP**
C O U N S E L O R S A T L A W

Andrea Preate
215.963.5225
apreate-regni@morganlewis.com

November 9, 2001

Via Facsimile

Regional FOIA Officer
U.S. Environmental Protection Agency, Region 8
Mail Code: 8-OC
999 18th Street, Suite 300
Denver, CO 80202-2466

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and any regulations promulgated thereunder, I am requesting a copy of the following:

1. All internal company documentation and recent testing of residential insulation materials referenced in the attached letter, dated August 1, 2000 to Dr. Linda Rosenstock of NIOSH, from Hugh S. Sloan, Assistant Surgeon General, U.S. Public Health Service, Region VIII (Attachment A);
2. All documentation and results of sampling of air, dust, soil and insulation, conducted by EPA from December 1999 through April 2000 and in 2001, referenced in the March 31, 2001 Report of the Office of Inspector General (Attachment B); and
3. Any and all documentation regarding the 243 sites identified by EPA in December 2000, which may have received vermiculite from the Libby, Montana site, also referenced in the March 31, 2001 Report of the Office of Inspector General (Attachment B)

ENTF Helvey Land
~~08/12~~

(8) RIN 53-02

Regional FOIA Officer
November 9, 2001
Page 2

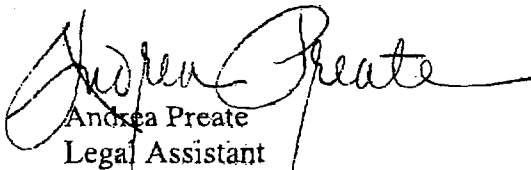
Morgan, Lewis
& Bockius LLP

Please forward the requested information to me at the above-noted address, billing us for all necessary copying charges. If those charges are expected to exceed \$100.00, please contact me directly before duplication.

If you choose to deny this request, please provide citation to the specific exemptions you believe justify your refusal to release the information requested. Pursuant to *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), please provide a detailed index describing each requested document or record you determine will not be released based on one of the exemptions provided by law.

If you have any questions regarding this request, please give me a call at 215.963.5225.

Very truly yours,


Andrea Preate
Legal Assistant

ATTACHMENT A

486100

**United States Public Health Service****Region VIII****1961 Stout Street, Room 498
Denver, Colorado 80294-3538****ADMINISTRATIVE RECORD****August 1, 2000****Dr. Linda Rosenstock, Director
National Institute for Occupational
Safety & Health
Hubert H. Humphrey Building Room 715H
200 Independence Ave., S.W.
Washington, DC 20201****Dear Dr. Rosenstock,**

I would like to bring to your attention a significant occupational and public health concern regarding the widespread dissemination of amphibole (actinolite-tremolite series) asbestos in Libby, Montana, and potentially in vermiculite end-products used throughout the country. As you may be aware, NIOSH researchers evaluated vermiculite miners, that were exposed to asbestos, in Libby, Montana in the early 1980's. NIOSH investigators found significantly elevated risks of asbestos-related malignant and non-malignant respiratory disease among these workers. Concurrently, Dr. Jim Lockey at the University of Cincinnati identified elevated pulmonary disease among workers with much lower asbestos exposures at a facility processing Libby vermiculite in Ohio. These articles have been included for your information.


In November 1999, Libby became the focus of national attention when it was reported that a number of residents that did not work at the vermiculite mine or processing facilities were suffering from asbestos-related diseases. Subsequently, researchers from the Environmental Protection Agency (EPA), Public Health Service (PHS) Region 8, and Agency for Toxic Substances and Disease Registry (ATSDR) began intensive environmental and public health investigations of the site. Medical screening (e.g., chest x-rays, pulmonary function testing, questionnaires) is currently being conducted on 4200 former workers, family contacts, and others potentially at risk. NIOSH researchers (Dr. Robert Castellan, Dr. Leslie Stayner, Dr. Pat Sullivan, Dr. Vince Castranova, Mr. Ken Wallingford, and Mr. Ralph Zumwalde) have also been providing intermittent technical assistance to these efforts.

One issue that has very recently come to our attention, is that end-product vermiculite insulation, and most likely other end-products, apparently contained appreciable quantities of asbestos, but were marketed, sold, and used throughout the country without adequate labeling or warnings and were commonly considered to be non-toxic (see enclosed information and video tape). Internal company documentation and recent testing of residential insulation materials, reportedly used in over one million homes, reveals that even minimal handling by workers or residents poses a substantial health risk (airborne exposures up to 150 times the current occupational standards (0.1 f/cc)).

Recent discussions between the aforementioned federal partners working at the Libby site identified the pressing need for increased NIOSH participation and response to occupational health issues of concern. Suggestions for NIOSH consideration include: 1) the need for further characterization of current worker exposures (e.g., construction/insulation workers, nursery workers) that occur when handling vermiculite end-products; 2) nationwide (i.e., "Hazard Alert") warning to workers of the potential dangers associated with these products; 3) possible epidemiologic or clinical investigations of appropriate groups that may currently or formally be at increased risk; and 4) a collaborative update of the original NIOSH Libby cohorts by NIOSH and ATSDR investigators to help understand the clinical progression of disease, morbidity, and mortality associated with this unique, and perhaps more toxic, form of asbestos. This information would be of great value, not only to those in Libby, but also for those at risk throughout the country.

If I can be of any further assistance to you in this matter please contact me at (303) 844-7880 or Dr. Aubrey Miller at (303) 844-7857.

Sincerely,


Hugh S. Sloan, D.S.W.
Assistant Surgeon General
Regional Health Administrator

Enclosures

cc: Dr. Henry Falk, Associate Administrator, ATSDR
Mr. Max Dodson, Assistant Regional Administrator, USEPA Region 8
Regional Director, DHHS, Region VIII
Principal Deputy ASH, OPHS, DHHS

ATTACHMENT B



Office of Inspector General **Report**

EPA's Actions Concerning Asbestos-Contaminated Vermiculite in Libby, Montana

2001-S-7

March 31, 2001



**Former Site of Screening Plant and Tree Nursery and
Current Superfund Removal Site**

**On the tape: Asbestos
Cancer and Lung Disease Hazard
Authorized Personnel Only
Respirators And Protective Clothing
Are Required In This Area**

**Inspector General Staff
Conducting the Review**

Headquarters Audit Division

**Frances E. Tafer
Christine Baughman
Bettye Bell-Daniel
Carolyn Bowers
Tina Lovingood
Gloria Taylor**

Engineering and Science Staff

**Stephen Schanamann
Office of Program Evaluation
Bill Samuel
Office of Counsel
Eric Hanger
(All in Washington, DC)**

Region Covered

Region 8

Program Offices Involved

**Office of Solid Waste and Emergency Response
Office of Prevention, Pesticides, and Toxic
Substances
Office of Air and Radiation
Office of Research and Development
Office of Enforcement and Compliance Assurance**

Photographs were courtesy of: Region 8 and Mel and Lerah Parker.

Picture on the cover: This is a picture of W. R. Grace's former screening plant location which a family moved onto in 1993 and owned and operated a tree nursery. Currently, this site is being cleaned up by EPA's Superfund removal program. See more pictures and details on page 9 and page 18 of this report.

Report 2001-S-7

hazardous waste regulation (Subtitle C) solid waste from ore and mineral extraction, beneficiation, and processing. The amendment directed EPA to develop hazardous waste regulations for such waste material or determine whether the exemption should continue.

In 1985, EPA reported to Congress that mining waste exhibits hazardous characteristics, waste management practices have caused environmental damage, and the range of risk from mining waste is broad. However, in 1986, EPA published a regulatory determination stating that RCRA regulation over extraction and beneficiation waste was "unwarranted because mining wastes tend to be disposed of in arid climates, facilities and wastes were located in sparsely populated areas where human contact is minimal, and waste volumes are high." This determination, upheld in court challenges, remains in effect.

SUPERFUND

Although wastes from ore and mineral extraction are excluded from hazardous waste requirements under RCRA, contamination from these wastes can be addressed under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund. Mining companies may be liable under CERCLA for the release or threat of release of hazardous substances into the environment.

CERCLA Section 103(c) Applicability to the Libby Mine

After December 11, 1980, CERCLA Section 103(c) required that owners of a facility that stored, treated, or disposed of known hazardous substances or had a suspected release of such substances should notify EPA within 180 days. After facilities notify EPA, CERCLA requires that EPA conduct a preliminary assessment of the facility within one year of notification. Although asbestos is a hazardous substance under CERCLA, according to EPA, Grace did not notify EPA under this section. Thus, the Libby mine and the screening and expanding plants could not have been considered for Superfund action.

Recent Superfund Actions

In November 1999, EPA staff went to Libby and met with state and local officials to learn about the situation and determine next steps. EPA conducted an initial inspection of the former mine and processing facilities, held interviews, and collected samples. The preliminary assessment and site inspection results confirmed that there were a large number of current and historic cases of asbestos-related diseases centered around Libby. The results also showed that high amounts of asbestos-



Screening Plant Removal Site

(Pages 1-8 intentionally omitted)

contaminated vermiculite remained at the screening plant, the export plant, the mine's tailings pile/pond, and in residential and shared community areas.

2
From December 1999 through April 2000, EPA collected samples of air, dust, soil, and insulation to: (1) determine whether there was a need for response actions in residential and shared community areas in and around Libby, (2) characterize the extent and severity of asbestos contamination, and (3) determine the risk to human health. The greatest emphasis was placed on the collection and analysis of air samples. Most of the air samples were collected using a stationary air monitor located in the principal living areas of residential homes. The preliminary testing results revealed tremolite asbestos fibers in some samples.



Export Plant Removal Site

In June 2000, removal actions were started at the screening and export plants.

In December 2000, EPA identified 243 sites that may have received vermiculite from Libby, and started to perform evaluations on each site. EPA found that approximately 6 to 8 percent of the 243 sites that had been evaluated as of December were actively processing vermiculite, and further response actions were needed on 16 of the sites. EPA is working with the Mine Safety and Health Administration (MSHA) to identify additional asbestos-contaminated sites not associated with Libby.

2
In 2001, EPA plans to conduct additional residential sampling in Libby to more specifically measure any asbestos exposure during residents' routine activities. EPA also plans to measure asbestos levels in the air and compare those measurements to data collected from the stationary air monitors at the same location. The data will be used to help assess health risks to people who engaged in the activities reviewed during the study.

Additional Actions Needed

Although we concentrated our efforts on asbestos-contaminated vermiculite, it came to our attention that other types of mines and related processing operations (such as beneficiation, exfoliation, textile, and manufacturing plants) are also at risk for contaminant-asbestos exposure. Such exposures could be causing asbestos-related diseases near the mines and operations. Currently, ATSDR is completing the medical testing of individuals in Libby, and the preliminary

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

Ref: 8ENF-T

NOV 8 2001

Mr. Eugene Frazier, Jr.
Ness, Motley, Loadholt, Richardson & Poole
28 Bridgeside Boulevard, P.O. Box 1792
Mount Pleasant, South Carolina 29465

Re: Freedom of Information Act Request
Phase I and Phase II Testing of Vermiculite
and Vermiculite Attic Insulation
Libby Asbestos Superfund Site
Request #08-RIN-00390-01

Dear Mr. Frazier:

This letter is in response to your Freedom of Information Act request dated September 21, 2001. One CD was mailed to you on October 22, 2001. Enclosed are four more CD's which will fulfill your FOIA request.

A bill for \$130.00 will be sent under separate cover. These costs include search and review time of \$30.00 and \$100.00 for five CD's @ \$20.00 each.

EPA has provided access to the Internet for the following frequently-requested data bases: CERCLIS, AIRS, AFS, RCRIS, TRIS, FINDS, PCS, WATER Discharge Permits EMCI, and LRT. The Internet address is <http://www.epa.gov/region8>. Select "FOIA", then go to About Region 8, then Freedom of Information. Questions can be directed to the Internet helpline at 1-800-334-2405 (dial "0" when they answer). The phonelines are staffed from 7:30 am to 8:00 pm EST. If you do not have access to the Internet, please note that many public libraries do have this access and offer it for public use.

If you have further questions regarding this matter, please contact Kelcey Land at (303)312-6393.

Sincerely,

Kelcey Land
for Sharon R. Kercher

Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



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08-RIN-00390-01

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MARLON E. KIMPSON

September 21, 2001

**VIA: Facsimile (303) 312-6961
and U.S. Mail**

Regional Freedom of Information Officer
Region 8, Mailcode: 8-OC
U.S. Environmental Protection Agency
999 18th Street, Suite 500
Denver, CO 80202-2466

Re: Freedom of Information Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, we respectfully request from EPA a copy of all EPA files relating to Phase I and Phase II Testing of vermiculite and vermiculite attic insulation performed by EPA, including all test reports, analysis results, data, photographs, videotapes and diagrams. If you have data that can be transferred electronically, I would appreciate you forwarding it to the following e-mail address: Efrazier@nmlrp.com.

My office agrees to pay all costs associated with search and reproduction of the requested records. If you have any questions relating to this request, I may be contacted at area code (843) 216-9673.

Your assistance is greatly appreciated.

Sincerely,

Eugene Frazier, Jr.
Paralegal



2001 SEP 27 AM 10:28
FOIA OFFICE
RECEIVED